UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733

December 10, 2012

Jayson M. Hudson
Regulatory Branch, CESWG-PE-RB
U.S. Army Corps of Engineers
P.O. Box 1229
Galveston, Texas 77553-1229

Mr. Hudson,

In accordance with our responsibilities under Section 309 of the Clean Air Act (CAA), the National Environmental Policy Act (NEPA), and the Council on Environmental Quality (CEQ) regulations for implementing NEPA, the U.S. Environmental Protection Agency (EPA) Region 6 office in Dallas, Texas, has completed its review of the Draft Environmental Impact Statement (DEIS) prepared by the United States Army Corps of Engineers (USACE) for the Luce Bayou Interbasin Transfer Project (LBITP). The purpose of the proposed action is to provide municipal water supply for Houston, Texas and its surrounding area by utilizing surface water rights currently available to Houston from Lake Livingston in the Trinity River basin.

EPA rates the DEIS as "**EC-2**" i.e., EPA has "environmental concerns and requests additional information" in the Final EIS. The EPA's Rating System Criteria can be found here: http://www.epa.gov/oecaerth/nepa/comments/ratings.html. Detailed comments are enclosed with this letter which clearly identifies our concerns and the informational needs requested for incorporation into the Final EIS (FEIS). Responses to comments should be placed in a dedicated section of the FEIS and should include the specific location where the revision, if any, was made. If no revision was made, a clear explanation should be included.

EPA appreciates the opportunity to review the DEIS. Please send our office two copies of the FEIS, and an internet link, when it is sent to the Office of Federal Activities, EPA (Mail Code 2252A), Ariel Rios Federal Building, 1200 Pennsylvania Ave, N.W., Washington, D.C. 20004. Our classification will be published on the EPA website, www.epa.gov, according to our responsibility under Section 309 of the CAA to inform the public of our views on the proposed Federal action. If you have any questions or concerns, please contact Keith Hayden of my staff at hayden.keith@epa.gov or 214-665-2133 for assistance.

Sincerely,

Debra A. Griffin
Associate Director, Office of
Planning and Coordination

Enclosure

DETAILED COMMENTS ON THE
US ARMY CORPS OF ENGINEERS
DRAFT ENVIRONMENTAL IMPACT STATEMENT
FOR THE
LUCE BAYOU INTERBASIN TRANSFER PROJECT
HARRIS AND LIBERTY COUNTIES, TEXAS

BACKGROUND: The Texas Water Development Board (TWDB) has been tasked with identifying water demand, supplies, and future water management strategies for the entire state. They chose to accomplish this by creating 16 regional water planning groups representing diverse interests in each regional geographic area. The Houston metropolitan area is part of 15 counties within Region H. To meet the expected future water demands and regulatory requirements for using surface water supplies, Houston must supplement Lake Houston and currently used Trinity River surface water sources with additional supplies. These waters have been permitted in Lake Livingston and are already contracted to Houston. Houston must use its available water supplies from Lake Livingston due to increased water demand for future growth, the need to significantly reduce groundwater usage, and Houston already uses all its existing water supplies from the San Jacinto River.

The Draft Environmental Impact Statement (DEIS) for the Luce Bayou Interbasin Transfer Project (LBITP) analyzes alternatives for the construction, operation and maintenance, and conveyance of water from Lake Livingston to Lake Houston. The proposed action will convey up to 450 million gallons daily (mgd) of water from the Trinity River Basin at Lake Livingston to the San Jacinto Basin at Lake Houston. The water will be utilized for municipal uses by the City of Houston.

DETAILED COMMENTS

EXECUTIVE SUMMARY

Executive Summary, Page 1

The DEIS indicates population for Harris County is expected to grow from 4 million residents in 2010 to approximately 6 million residents in 2040. During that same time frame, water use is expected to increase from 450 mgd to 1,350 mgd. This represents a doubling of water use per person over that time frame. Page 7 of the Executive Summary states "The Region H Regional Water Plan (RWP) has adopted aggressive water conservation and wastewater reuse program goals as a part of the regional water supply plan."

- Describe why a doubling of the water used per person is projected to occur in the next 30 years.

2.0 PROPOSED ACTION AND ALTERNATIVES

2.5 – Build Alternatives Considered in Detail, Page 2-16

EPA finds that all the alternatives analyzed in the DEIS would result in adverse impacts to aquatic resources and do not address active shoreline erosion, and siltation, of Lake Houston. EPA recommends the applicant consider alternatives that could result in further avoidance and minimization of impacts to the aquatic ecosystem.

- Reconsider a combination of hydraulic dredging of Lake Houston and the creation of a lacustrine fringe along the actively eroding shoreline. We feel this alternative is viable because the beneficial reuse of dredged material to create emergent marsh could reduce the need for off-site compensatory mitigation, increase water storage capacity of Lake Houston, decrease or halt bank destabilization, and save the project sponsor valuable funds. For further information please see the May 17, 2010 scoping comments from EPA Region 6.

2.8.15 – Potential Land Acquisition Issues, Page 2-80

Land acquisition for the necessary acreage uses a price of $1,800 per acre. This section indicated land values for the area are expected to rise and cites a 7,400 acre tract near Luce Bayou that recently sold for approximately $2,500 per acre. The rationale given for the lower expected cost to acquire land for the LBITP is that acquiring the land in smaller tracts will decrease the cost per acre.

- Describe the methodology or cite the study used to form this assumption.

3.0 AFFECTED ENVIRONMENT

3.15. – Historic and Archeological Resources, Page 3-123

Based on the information in the DEIS it is unclear what process was used to determine Indian Trust Assets (ITA) were not present in the vicinity of the study area. In addition, it does not appear the tribes were contacted regarding National Historic Preservation Act (NHPA) or Archeological and Historical Protection Act (AHPA) coordination for historic, archeological, or cultural resources.

- Provide the methods or analysis used to determine there were no ITA's in the project vicinity, and why NHPA and AHPA coordination with the Tribes was not necessary.

4.0 ENVIRONMENTAL CONSEQUENCES

4.7.5.2 – Recreation and Parkland Alternative 3A, Page 4-123

This section recommends that emissions related to construction impacts will be minimized through mitigation measures. In the development of a construction emissions mitigation plan for the project, the EPA recommends that, in addition to all applicable local, state, or federal requirements, the following mitigation measures be included in the Construction Emissions Mitigation Plan in order to reduce air quality impacts associated with emissions of NOx, CO, PM, SO_2, and other pollutants from construction-related activities:

Emissions Mitigation Plan in order to reduce air quality impacts associated with emissions of NOx, CO, PM, SO_2, and other pollutants from construction-related activities:

Fugitive Dust Source Controls:

- Stabilize open storage piles and disturbed areas by covering and/or applying water or chemical/organic dust palliative where appropriate at active and inactive sites during workdays, weekends, holidays, and windy conditions;
- Install wind fencing and phase grading operations where appropriate, and operate water trucks for stabilization of surfaces under windy conditions; and
- Prevent spillage when hauling material and operating non-earthmoving equipment and limit speeds to 15 miles per hour. Limit speed of earth-moving equipment to 10 mph.

Mobile and Stationary Source Controls:

- Plan construction scheduling to minimize vehicle trips;
- Limit idling of heavy equipment to less than 5 minutes and verify through unscheduled inspections;
- Maintain and tune engines per manufacturer's specifications to perform at EPA certification levels, prevent tampering, and conduct unscheduled inspections to ensure these measures are followed;
- If practicable, utilize new, clean equipment meeting the most stringent of applicable Federal or State Standards. In general, commit to the best available emissions control technology. Tier 4 engines should be used for project construction equipment to the maximum extent feasible;
- Lacking availability of non-road construction equipment that meets Tier 4 engine standards, the responsible agency should commit to using EPA-verified particulate traps, oxidation catalysts and other appropriate controls where suitable to reduce emissions of diesel particulate matter and other pollutants at the construction site; and
- Consider alternative fuels and energy sources such as natural gas and electricity (plug-in or battery).

Administrative controls:

- Prepare an inventory of all equipment prior to construction and identify the suitability of add-on emission controls for each piece of equipment before groundbreaking;
- Develop a construction traffic and parking management plan that maintains traffic flow and plan construction to minimize vehicle trips; and
- Identify sensitive receptors in the project area, such as children, elderly, and infirmed, and specify the means by which impacts to these populations will be minimized (e.g. locate construction equipment and staging zones away from sensitive receptors and building air intakes).

4.7.10 – Socioeconomic Issues, Page 4-130

This section only discusses, in general terms, what would happen to the various industries in the project area if water shortages occurred. It does not discuss how the LBITP will potentially affect water availability for each of these business sectors.

- Provide specifics as to how the construction, operation, and conveyance of water for the LBITP would affect water availability for each of the business sectors in this section.

4.9.1 – Environmental Justice, Page 4-139

Although potential impacts to minority populations were addressed, the DEIS did not assess potential impacts to low income populations as specified in Executive Order 12898. Other factors, such as potentially vulnerable populations, i.e. children, the elderly, and education status were not addressed.

- Include an assessment of potential impacts to low income populations and potentially vulnerable populations in the Final EIS.

4.11 – Archeological and Historic Resources, Page 4-154

The DEIS states two new historic period sites were discovered during a site specific investigation of the Area of Potential Effects (APE). While no direct impacts to the sites are anticipated; it is unclear whether consultation with the Texas State Historic Preservation Officer (SHPO) was conducted regarding the two new resource areas.

- Provide correspondence with the SHPO's concurrence that the two historic resources will not be affected by the LBITP.

GENERAL COMMENTS

There were sections in the DEIS where consultation documentation was lacking.

- Include all comments received from consultation with Agencies, Organizations, Tribal Governments, and Persons contacted in the FEIS. For City, County, State, or Federal Agencies with whom USACE has a duty to consult for concurrence; please provide this correspondence in a dedicated section of the FEIS.